

DOCKET FILE COPY ORIGINAL

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Waiver by)	
)	
White Plains City School District)	File No. SLD-123701
White Plains, New York)	
)	
Schools and Libraries Universal)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: November 4, 2003**Released: November 5, 2003**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by White Plains City School District, White Plains, New York (White Plains), seeking a waiver of the Commission's rules governing the schools and libraries universal service support mechanism.¹ Specifically, White Plains requests a waiver of the filing deadline for Funding Year 2002.² For the reasons set forth below, we deny the Waiver Request.

2. In its decision, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) denied granting a waiver to White Plains on the basis that Commission rules do not permit it to consider such a request.³ Therefore, White Plains now asks for a waiver of the filing window from the Commission.⁴ In support of its request, White Plains attributes its inability to submit its application in a timely manner because of a staff member's failure to file the form.⁵ White Plains argues that SLD failed to promptly send information to White Plains new employee concerning how to file a Form 471.⁶

¹ Letter from Richard C. Lasselle, White Plains City School District, to Federal Communications Commission, filed January 6, 2003 (Waiver Request). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. §54.719(c).

² See Waiver Request.

³ Administrator's Decision on Waiver Request, Universal Service Administrative Company, to Richard Lasselle, White Plains City School District, dated November 18, 2002.

⁴ Waiver Request.

⁵ *Id.*

⁶ *Id.*

3. We find that a waiver is not appropriate. A waiver from the Commission is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.⁷ Applicant's assertion that the employee responsible for filing the application failed to do so is not a special circumstance warranting a waiver of the filing window. In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its application materials if it wishes to be considered within the window. Additionally, an applicant must take responsibility for the actions of those employees to whom it gives responsibility for submitting timely and proper requests for discounts on its behalf.⁸ Thus, staffing problems do not relieve applicants of their responsibility to comply with our rules and procedures.⁹ As for White Plains contention that the flow of information regarding deadlines was interrupted, the FCC has found that confusion about the program's requirements is not grounds for a waiver of the filing window.¹⁰ Therefore, we deny the Waiver Request.

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by White Plains City School District, White Plains, New York, on January 6, 2003, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*), see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert. denied*, 409 U.S. 1027 (1972).

⁸ See, e.g., *Request for Review by Danbury Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC 471 04 13-00 31900001, CC Docket Nos. 96-45 and 97-21, Order, FCC Rcd 10910 (Com. Car. Bur. 2001) (denying waiver request in case when employee responsible for filing failed to do so).

⁹ See, e.g., *Request for Waiver by Hancock County Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-318275, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 19521 (Wireline Comp. Bur. 2002).

¹⁰ See *Request for Waiver by Hasbrouck Heights School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-261183, CC Docket Nos. 96-45 and 97-21, Order, DA 03-757 (Wireline Comp. Bur. Rel. March 13, 2003), see also SLD's website at <http://www.sl.universalservice.org/Menu.asp>. Instructions, forms, and filing date information can be obtained by calling SLD's Client Service Bureau at 888-203-8100.